

Exhibit 7

EXPERT REPORT OF JOHN H. GUSWA

**City of New York v. Amerada Hess Corp., et al.,
Case No. 04-Civ-3417**

**Prepared for
Goodwin Procter LLP**

Prepared by

A handwritten signature in black ink, reading "John H. Guswa". The signature is written in a cursive, flowing style with a large initial "J" and "G".

**John H. Guswa, Ph. D.
President and Principal Hydrogeologist
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March 9, 2009

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INTRODUCTION

Purpose and Scope

I have been asked by counsel to Gulf Oil Limited Partnership (“GOLP”) to evaluate plaintiff’s claims that: 1) releases of gasoline containing MTBE at the 202-06 Hillside Avenue, Hollis, New York retail service station may have contributed to past detections of MTBE in New York City Supply Well Q-305 (“Well 5”) (February 7, 2009 Expert Report of Donald K. Cohen and Marnie A. Bell (the “Cohen/Bell report”)); and 2) would likely be a source of MTBE to Well 5 water under certain assumed future pumping conditions (February 6, 2009 Expert Report of David B. Terry “Assessment of Future Potential MTBE Impact at New York City Water Supply Station 6 and Individual Wells 5, 22, 26, 39, and 45, in the Borough of Queens, New York City”) (the “Terry report”). For the service station at 202-06 Hillside Avenue my evaluation focuses on the time period from September 10, 2003 to December 31, 2003, which is the very limited time frame during which GOLP would have distributed gasoline containing MTBE to that service station.

I have also been asked to evaluate plaintiff’s claim that a release of gasoline containing MTBE at the 118-02 Queens Boulevard service station would likely be a source of MTBE to New York City Supply Well Q- 322 (“Well 22”) in the future (Terry report).

My professional expertise relevant to my work on this project includes more than 30 years of experience as a hydrogeologist. My experience ranges from planning, directing and implementing field investigations of groundwater systems to the application of analytical and numerical models to simulate aquifer systems. I have provided consulting services to local, national and international governmental agencies as well as commercial clients. My work experience includes planning and directing programs for regional and local groundwater resource evaluation; supervision of deep and shallow test well drilling and sampling programs; design and

supervision of aquifer testing, monitoring and analysis programs; analysis of groundwater/surface water interactions; development and application of groundwater flow, energy and chemical transport models; assessment of groundwater contamination; evaluation and design of remedial systems; and participation in regulatory negotiations related to Remedial Investigation/Feasibility Studies, Remedial Design and Remedial Actions. Several of my projects have included the consideration and evaluation of the hydrogeologic conditions of Long Island, New York. I am an AIH-certified Professional Hydrogeologist, a Pennsylvania-Certified Geologist, and a Registered Licensed Site Professional in Massachusetts. A copy of my resume is included as Attachment A to this report. I am being compensated for my work on this project at my normal billing rate of \$205.00 per hour. For deposition and trial testimony, my hourly billing rate is \$307.50.

The opinions that I offer in this report are provided with a reasonable degree of scientific certainty and are based on my professional experience and education as well as the data and documents that I have obtained and reviewed during my work on this project. A listing of the materials I have reviewed is included as Attachment B to this report. If I obtain additional information relevant to this matter, I reserve the right to supplement my report or opinions based on that additional information.

Summary of Opinions

Opinion 1. There is no evidence that a release to groundwater of gasoline containing MTBE occurred during the time period when GOLP distributed gasoline containing MTBE to the retail service station at 202-06 Hillside Avenue.

Opinion 2. Mr. Terry's opinion that MTBE concentrations of "about 70 ppb" could reasonably be expected to be present in water pumped from Well 5 in the future is an unreasonable and unreliable estimate that should not be relied on as a basis for Well 5 treatment system design.

Opinion 3. Mr. Terry's opinion that MTBE concentrations of as much as 23 ppb could reasonably be expected to be present in water pumped from Well 22 in the future as a result of a past release of gasoline containing MTBE at a service station at 118-02 Queens Boulevard is an unreasonable and unreliable estimate that is based on speculative assumptions and should not be relied on as a basis for Well 22 treatment system design.

BACKGROUND

Hydrogeologic Setting of 202-06 Hillside Avenue and Well 5

The retail service station at 202-06 Hillside Avenue, Hollis, New York is located at the intersection of Hillside Avenue and 202nd Street in eastern Queens County. Well 5 is located at 93-02 199th Street, approximately 2,500 feet south of 202-06 Hillside Avenue. The subsurface geology in the area consists of unconsolidated Quaternary and Cretaceous age sediments which overlie crystalline bedrock. The principal aquifers in the area are the relatively shallow Upper Glacial aquifer and the deeper Magothy aquifer. The ground surface elevation at 202-06 Hillside Ave is approximately 90 feet above mean sea level, and the water table at 202-06 Hillside Avenue is approximately 60 feet below ground surface.

Well 5

Well 5 was originally installed to a depth of approximately 87 feet in 1923. The well was screened in the Upper Glacial aquifer. The well was deepened in 1985 to a depth of 280 feet below ground surface. This deepened Well 5 is screened in the Magothy aquifer. The reported pumping capacity for the original Well 5 and the deepened Well 5 was 1,200 gallons per minute (“gpm”). Figure 1 illustrates the historic pumping rate between 1979 and 2008 from Well 5 in thousands of gallons per month, and in gpm. Well 5 pumpage data were obtained from New York City Department of Environmental Protection (“NYCDEP”) tables of Groundwater Distribution. Well 5 was pumped continuously from 1990 to 2007 at rates ranging from approximately 140 gpm to 1,411 gpm, with an average pumping rate of approximately 930 gpm.

The volatile organic compound (“VOC”) tetrachloroethene (“PCE”) was detected in water pumped from Well 5 in 1986 at a concentration of 11 µg/L (parts per billion “ppb”). From 1996 to 2001, PCE concentrations in Well 5 water samples decreased from approximately 90 ppb to approximately 40 ppb. Between 2002 and 2007, PCE concentrations in Well 5 water samples

have increased gradually from approximately 40 ppb to approximately 55 ppb. The New York State drinking water standard for PCE is 5 ppb. The VOCs trichloroethene (“TCE”) and cis-1,2 dichloroethene (“cis-1,2 DCE”) have also been detected in Well 5 water samples. Between 1995 and 2002 trichloroethene was detected periodically in Well 5 samples at concentrations greater than the New York state drinking water standard of 5 ppb. Since 2002, TCE concentrations have been about 3 to 4 ppb. Cis-1,2 DCE has been reported in Well 5 water samples at concentrations ranging from 1 to approximately 3 ppb. The TCE and cis-1,2-DCE concentrations are less than the New York state drinking water standard.

MTBE has been detected in Well 5 water samples intermittently since June 1996. The reported MTBE concentrations have ranged from not detected (at a detection limit of 0.5 ppb) to a maximum concentration of 1.7 ppb in March 1999. Post-December 2004, Well 5 MTBE concentration data indicate a decreasing concentration trend, and since 2006, MTBE concentrations in Well 5 water samples have been approximately 1 ppb or less. The New York State drinking water standard for MTBE is 10 ppb.

Figure 2 is a graph of reported PCE and MTBE concentrations for Well 5 water samples for the period June 1996 through September 19, 2007. The information for the period up to February 13, 2007 was contained in NYCDEP water quality data files. Post-February 13, 2007 water quality data were contained in laboratory sheets that I reviewed. MTBE concentrations in Well 5 water samples collected on March 27, 2007 and September 19, 2007 were all less than or equal to 1 ppb.

202-06 Hillside Avenue

The 202-06 Hillside Avenue property is located at the intersection of Hillside Avenue and 202nd Street in Hollis, New York. The area surrounding the property is mixed residential and commercial use. The property has been used as a retail service filling station since 1951. Gasoline was, and is, stored on site in underground storage tanks (“USTs”). The gasoline was, and is, distributed by underground piping to dispensers located on several dispenser islands. GOLP acquired the right to distribute gasoline to the 202-06 Hillside Avenue station on September 10, 2003.

In September 1990, Unico Environment, Inc. prepared a tankfield excavation assessment report. The report indicated that in July, 1990, twelve previously abandoned 550-gallon underground storage tanks had been removed by Petroleum Construction Company, Inc. The tanks were determined to be structurally sound and free of corrosion. Petroleum hydrocarbons were detected in the soil beneath the tank field. Two soil samples collected from the bottom of the tank excavation reported total petroleum hydrocarbon concentrations of 245 and 9,377 milligrams per kilogram, respectively. In January 1999, Geologic Services Corporation (“GSC”) submitted a report describing a subsurface investigation done in 1998. Ten soil borings were drilled, and three monitoring wells were installed. Separate-phase product was detected in one of the monitoring wells (MW-3), and a water sample from one of the other monitoring wells (MW-1) had petroleum concentrations present at concentrations greater than New York state action levels. A quarterly well sampling program was initiated. By June 2000, three additional monitoring wells had been installed at and in the vicinity of the 202-06 Hillside Avenue station in response to the detection of petroleum hydrocarbons and MTBE in groundwater. The six monitoring wells have been sampled on a regular basis since they were installed. Table 1 presents a summary of the MTBE concentrations that have been detected in samples from the various monitoring wells since the first well was sampled in September 1999. Figure 3 is a graph of MTBE concentrations detected in groundwater samples from the six monitoring wells. The tabular and graphical summaries of MTBE concentrations show that there has been a

continual decline of MTBE concentrations in the groundwater in the vicinity of 202-06 Hillside Avenue. The slowest and most variable decline in MTBE concentrations has been in well MW-3. This is not unusual given that free-phase gasoline had been detected in this well. Between 1998 and 2003, on-site investigation work was done primarily by GSC. Since 2003, the on-site investigation work has been done primarily by Leggette, Brashears and Graham (“LBG”).

In December 2008, LBG submitted a Remedial Action Plan (“RAP”) to the New York Department of Environmental Conservation. The RAP recommended using enhanced aerobic bioremediation to remediate dissolved petroleum constituents present in the groundwater at the site. LBG evaluated the historic groundwater quality data from on-site monitoring wells and concluded that the improving trend in groundwater quality may be an indication that natural attenuation of contaminated groundwater is occurring at the site. Consequently, LBG recommended the use of oxygen releasing compounds (“ORC”) in monitoring wells MW-1 and MW-3 to increase the rate of biodegradation of petroleum components in groundwater that was occurring naturally. LBG stated in the RAP that the ORC would introduce additional oxygen to the groundwater beneath the site to accelerate the reproduction rate of aerobic microorganisms and subsequently increase the biodegradation rate of dissolved petroleum components in the groundwater.

Since at least 2000, the underground storage tanks and distribution lines have undergone periodic inspections. Table 2 is a summary of the UST system inspections that have been documented in the materials that I have reviewed regarding the 202-06 Hillside Avenue retail service station.

STATEMENT OF OPINIONS

Opinion 1. There is no evidence that a release to groundwater of gasoline containing MTBE occurred during the time period when GOLP distributed gasoline containing MTBE to the retail service station at 202-06 Hillside Avenue.

GOLP only distributed gasoline containing MTBE to the 202-06 Hillside Avenue retail service station for the very short time period between September 10, 2003 and December 31, 2003 (the “relevant time period”). GOLP began distributing gasoline to the retail service station at 202-06 Hillside Avenue on or about September 10, 2003 (Transcript of November 7, 2006 GOLP Rule 30(b)(6) Deposition of Ronald R. Sabia, p. 22) and effective January 1, 2004 gasoline containing MTBE was no longer supplied in New York.

Notwithstanding the fact that the plaintiff has not identified any release of gasoline containing MTBE from 202-06 Hillside Avenue during the period September 10, 2003 to December 31, 2003, I reviewed the 202-06 Hillside Avenue station files that were produced to determine whether there was any evidence of a release of gasoline containing MTBE during the period when GOLP would have supplied gasoline containing MTBE to the station. These files included documents related to physical features of the 202-06 Hillside Avenue property and retail service station, underground storage tank and line leak detection testing and inspections, regulatory agency correspondence, site environmental investigations and data collection, and water quality data for on-site and off-site groundwater. Based on my review of the information contained in these files, I have concluded that there is no evidence of a release of gasoline containing MTBE to groundwater during the period when GOLP supplied gasoline containing MTBE to the 202-06 Hillside Avenue station. In particular:

- The station files contain no reports of a release of gasoline during the period September 10, 2003 through December 31, 2003.

- The station files indicate that underground storage tank pressure testing done on 11/12/2003 and on 06/01/2006, before and after the relevant time period, did not indicate any tank leakage.
- The station files indicate that line pressure testing done on 10/01/2003 and on 08/26/2004, before and after the relevant time period, did not indicate any line leakage.

Plaintiff expert Mr. Marcel Moreau agrees that none of the tank testing data and tank testing reports for 202-06 Hillside indicate leakage (February 6, 2009 Expert Site Specific Report of Marcel Moreau, p. 282).

As there is no evidence of a release to groundwater of gasoline containing MTBE during the period when GOLP distributed gasoline containing MTBE to the 202-06 Hillside Avenue service station, GOLP could not be responsible for any of the past, or estimated future, MTBE concentrations in Well 5 as alleged by the plaintiff to be from the 202-06 Hillside Avenue station.

Opinion 2. Mr. Terry's opinion that MTBE concentrations of "about 70 ppb" could reasonably be expected to be present in water pumped from Well 5 in the future is an unreasonable and unreliable estimate that should not be relied on as a basis for Well 5 treatment system design.

Even though there is no evidence of a release to groundwater of gasoline containing MTBE at the 202-06 Hillside station for which GOLP has responsibility, I reviewed Mr. Terry's procedure for estimating future MTBE concentrations at Well 5. As a result of my review, I have concluded that Mr. Terry's model-calculated future MTBE concentrations of "about 70 ppb", with a peak model-calculated MTBE concentration of 72 ppb, at Well 5 are unreasonable and unreliable estimates that should not be relied on as a basis for Well 5 treatment system design.

Mr. Terry's model-calculated peak MTBE concentration of 72 ppb was used for the maximum water design criteria for Well 5 (Cohen/Bell report, p 9-20). Mr. Terry's model-calculated future MTBE concentration of 72 ppb is based on unsupported assumptions that cannot be representative of site conditions. His model-calculated MTBE concentrations at Well 5 for the period for which there are actual data do not even come close to matching the MTBE concentrations that have been detected in Well 5 water samples, and they cannot be a valid basis for Well 5 treatment system design.

The procedures used by Mr. Terry to estimate future MTBE concentrations in Well 5 water are described in section 4 of the Terry report and in section 8 of the Cohen/Bell report. My review of Mr. Terry's approach to estimating future MTBE concentrations to be expected at Well 5 did not include a review of any specific modeling files, as these were not provided for my review. Consequently, my review is limited to the information contained in the Terry and Cohen/Bell reports.

The procedures used by Mr. Terry to estimate future MTBE concentrations at Well 5 generally involved use of a three-dimensional groundwater flow model to estimate a composite capture zone for Well 5 under certain assumed future pumping conditions, followed by use of an analytical transport model to calculate MTBE concentrations at Well 5. The analysis referred to the future as the years 2009 to 2040.

Figure 12 of the Terry report shows the geographic outline of his model-calculated composite capture zone for Well 5. Four "modeled spill locations" (D-001 through D-004), which plaintiff claims represent known release locations of gasoline containing MTBE, are shown to be within the boundaries of the model-calculated Well 5 composite capture zone for the assumed future pumping conditions. Location D-001 is the 202-06 Hillside Avenue station. Mr. Terry used an analytical transport model ("ATRANS") to simulate releases of gasoline containing MTBE and MTBE transport in groundwater from the "modeled spill locations." The MTBE mass input to the analytical model and model-calculated MTBE concentration output for "modeled spill